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प्रसाधारण

EXTRAORDINARY

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PART II—Section

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह प्रलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 29th November, 1968:—

I

BILL No. XXXI of 1968

A Bill further to amend the Foreigners Act, 1946.

Be it enacted by Parliament in the Ninetcenth Year of the Republic of India as follows:—

1. This Act may be called the Foreigners (Amendment) Act, 1968. Short title.

31 of 1946. 2. In section 3 of the Foreigners Act, 1946, to sub-section (1), the following proviso shall be added, namely:— Amendment of section 3.

“Provided that the Central Government shall, by order, prohibit entry of a foreigner into India if it is satisfied that the

foreigner seeking entry into India is likely to engage, overtly or covertly, in any proselytising activity.

Explanation.—‘Proselytising Activity’ includes any activity carried on for the purpose of conversion of a person from one religion to another.”

STATEMENT OF OBJECTS AND REASONS

Lately, there have been extremely disquieting reports from several States that the freedom presently available to foreign missionaries to carry on their proselytising work is being widely abused with the result that disruptive and subvertive activities are on the increase in the country. National interest demands that this situation be effectively controlled. The Bill seeks to amend the Foreigners Act, 1946, so as to restrict the entry into India of such undesirable aliens.

MAN SINGH VARMA

II

BILL No. XXXVI OF 1968

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Industrial Disputes (Amendment) Act, 1968.

Amend-
ment of
section 36.

2. In section 36 of the Industrial Disputes Act, 1947, to sub-section (4), the following proviso shall be added, namely:—

“Provided that the consent of the other parties shall not be required in such proceedings where the Labour Court, Tribunal, or National Tribunal is of the opinion that the dispute involves a substantial question of law or fact.”

STATEMENT OF OBJECTS AND REASONS

Under sub-section (4) of section 36 of the Industrial Disputes Act, 1947, a party to a dispute in any proceeding before a Labour Court, Tribunal or National Tribunal, can be represented by a legal practitioner with the consent of the opposite party and with the leave of the Labour Court, Tribunal, or National Tribunal, as the case may be. If an officer of the Trade Union who is referred to in sub-section (1) of section 36 is qualified to represent a workman or an officer of an association of employers who is qualified to represent an employer under sub-section (2) of section 36 or an officer or director of a corporation through whom a corporation is entitled to be represented by the procedure governing tribunal happens to be a legal practitioner, that fact by itself cannot disqualify him from appearing before the tribunal. The provisions of section 36 are liable to be abused by representatives on either side who are either lawyers or virtual lawyers by reason of experience. Moreover, it is experienced that a party to a dispute suffers for want of representation through a legal practitioner because of the refusal of the opposite party to consent to the engagement of the legal practitioner by the other side, particularly in those cases where complicated questions of law or fact are involved. It is therefore proposed to amend sub-section (4) of section 36 so as to dispense with the consent of the opposite party in cases involving complicated questions of law or fact.

A. D. MANI.

III

BILL No. XXXV OF 1968

A Bill to provide for compulsory registration of religious conversions in India,

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:

Short
title,
extent
and com-
mence-
ment.

1. (1) This Act may be called the Registration of Conversions Act, 1968.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Defi-
nitions.

(i) "appropriate Government" or "Government" means in the case of Union Territories, the Central Government, and in the case of States, the State Government concerned;

(ii) "Conversion" means the voluntary act of changing, converting or altering the religion of birth, faith, belief and mode of religious practice by any person who has completed the age of eighteen years, by requisite religious rites, customary ceremony, legal citation or by any form or manner, so prevailing in the community, caste, society or common practice and includes re-conversion;

(iii) "memorandum" means a memorandum of conversion mentioned in section 5;

(iv) "priest" means any person who solemnizes conversion either under any religious authority or otherwise;

(v) "Register" means a Register of Conversions maintained under this Act;

(vi) "Registrar of Conversions" means the District Magistrate and in case of Presidency towns the Chief Presidency Magistrates appointed as Registrar of Conversions under this Act.

3. All conversions shall be registered in the manner as provided in this Act.

Every
conver-
sion to be
registered.

4. (1) The appropriate Government shall appoint District Magistrates to be the Registrars of Conversions of respective districts and the Chief Presidency Magistrates to be the Registrars of Conversions of respective Presidency towns under their jurisdiction.

Appoint-
ment of
Registrar
of Con-
versions
and
Register
of Con-
versions.

(2) Every Registrar of Conversions shall maintain a Register of Conversions.

5. (1) Every person proposing to change or alter the religion of his birth, or customary faith of religious practice, by conversion to another religion or faith, of his own free will and voluntary choice, shall prepare and sign a memorandum in such form as may be prescribed by the Government and shall deliver or send by registered post the said memorandum in triplicate to the Registrar of Conversions of the area ninety days before the date of proposed conversion.

Memoran-
dum of
conversion.

(2) The memorandum shall also be signed by the priest, or head of the religious institution or the person who has agreed to perform the ceremony or rites at the time of conversion ceremony.

(3) The memorandum shall be accompanied by a fee of five rupees.

(4) On the receipt of the memorandum under sub-section (1), the Registrar of Conversions shall, within fifteen days from the date of the receipt of the memorandum, send a copy thereof to the appropriate police authorities for enquiry and report and another copy to the religious head, chief priest, community organisation, social body or recognised mission of the religion or faith from which or out of which the person proposes to seek conversion, for information.

(5) On the receipt of the report from the appropriate police authorities, the Registrar of Conversions shall make an appropriate entry on the memorandum and in the Register of Conversions.

Conversion when becomes complete.

6. (1) After the expiration of the period of ninety days under sub-section (1) of section 5, the person presenting the memorandum shall be entitled to effect the act of conversion and the act of conversion shall be completed within a period of forty-five days from the date of expiry of the ninety day's period.

(2) The person so converted according to the provisions of sub-section (1), shall deliver or send by registered post an intimation of conversion in such form as may be prescribed by Government, duly signed by himself, the priest who performed the ceremony or rites at the conversion ceremony and three witnesses, to the Registrar of Conversions.

(3) The Registrar of Conversions shall on getting the intimation of conversion, make an entry in the Register of the Conversion so effected and shall issue a certificate of conversion to the person presenting the memorandum.

Register to be open to public inspection. Non-registration not to invalidate conversion.

7. The Register of Conversions shall at all reasonable times be open to inspection and any person shall be entitled to take copies of, or make extracts from, the register on payment of such fees and subject to such conditions as may be prescribed.

8. No conversion shall be invalid solely for the reason that it was not registered under this Act or that the memorandum or the intimation of conversion was not delivered or sent to the Registrar of Conversions or that such memorandum or intimation of conversion was defective, irregular or incorrect:

Provided that such conversion shall not be accepted as proof for granting any weightage in service under the Central Government or State Governments and shall not entitle the person so converted to any special privileges, rights, scholarships and such other benefits as may be given by the Central Government or the State Governments to a person of that particular religion, to which the person claims to be converted.

9. Any person who wilfully avoids or neglects to deliver or send the memorandum as required by section 5 and the intimation of conversion under section 6, or makes any statement in such memorandum or intimation of conversion which is false in any material particular and which he knows or has reason to believe it to be false, shall on conviction, be punished with a fine which may extend to two hundred rupees.

Penalty neglecting to comply with provisions of sections 5 and 6 or for making false statement in memorandum.

10. A Registrar of Conversions who fails to deal with the memorandum in accordance with the provisions of section 5, or the intimation of conversion under section 6, shall, on conviction, be punished with rigorous imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for failing to file memorandum.

11. Any person secreting, destroying or dishonestly altering the Register of Conversions or any part thereof shall, on conviction be punished with imprisonment for a term which may extend to two years and shall also be liable to fine which may extend to one thousand rupees.

Penalty for secreting, destroying or altering register.

12. Every Registrar of Conversions shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Registrar of Conversions to be public servant.

13. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:

- (a) the duties and powers of the Registrars of Conversions;
- (b) forms of the memorandum of conversion and the intimation of conversion, the forms and manner in which registers or records required to be kept by or under this Act shall be maintained;
- (c) the custody in which the registers and records are to be kept and preservation of such registers and records;
- (d) provision to enable the Registrar of Conversions to be present, if needed, at the time of actual conversion;
- (e) the fees which may be payable under this Act;
- (f) the form of procedure to be followed in connection with any proceeding before the Registrar of Conversions.

(3) The Government may, by notification in the Official Gazette, maintain a list of religious heads, chiefs, priests, missions, recognised religious authorities, societies, etc., in the State as well as the community organisations, social institutions or bodies of recognised castes, sects, faiths or communities to whom a copy of memorandum of conversions is to be sent as provided under sub-section (f) of section 5.

(4) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only, in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

At present there is no provision anywhere to keep a record of religious conversions that are taking place in the country. Such a record or statistics of conversions however, is not only necessary in the larger public interest, but also is of great value for many purposes, such as, census, social work, research, etc. Besides, the person seeking conversion must be given enough time to come to a decision about the changing of faith after considering all the pros and cons of the matter.

Hence this Bill.

J. S. TILAK.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill and in particular in regard to certain matters which include the duties and powers of the Registrar of Conversions, the forms of memorandum of conversion and the intimation of conversion, the forms and manner in which registers, records are required to be maintained, the custody in which the registers and records are to be kept, the provisions to enable the Registrar of Conversions to be present at the time of actual conversion, the fees to be charged and for proceedings before the Registrar of Conversions. The matters in respect of which such rules may be made are matters of procedure or administrative details. The delegation of legislative power is thus of a normal character.

IV

BILL No. XXX OF 1968

A Bill further to amend the Code of Civil Procedure, 1908.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Civil Procedure (Amendment) Act, 1968. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

5 of 1908.

2. Section 87B of the Code of Civil Procedure, 1908 (hereinafter referred to as the principal Act), shall be omitted. Omission of section 87B.

3. Notwithstanding anything contained in the foregoing section, the provisions of section 87B of the principal Act shall continue to apply to all such acts, dealings or transactions as were done, undertaken or executed by the Ruler of any former Indian State before the 26th of January, 1950, to which that section would have applied had it not been omitted, as if that section has not been omitted. Savings.

STATEMENT OF OBJECTS AND REASONS

Considered in the light of the basic principle of equality before law enjoined by the Constitution, the protection given to the Rulers of former Indian States by section 87-B of the Code of Civil Procedure, 1908 is discriminatory. In the case of Shri Narottam Kishore Deb Varma and others *versus* the Union of India and another, the Supreme Court have observed that while for dealings and transactions prior to the 26th January, 1950, protection might justifiably be given to the Rulers of former Indian States, it would seem odd that section 87B of the Code of Civil Procedure, 1908, should be allowed to operate for all time to come. It seems, therefore, desirable to restrict the operation of this section only to the past transactions of the Rulers of former Indian States so that the anomaly of the distinction between them and the rest of the citizens is not perpetuated.

This Bill seeks to remove this discrimination by omitting the section.

CHITTA BASU.

V

BILL NO. XXVII OF 1968.

A Bill to amend the Delhi Administration Act, 1966.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Delhi Administration (Amendment) Act, 1968.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title and
com-
mence-
ment.

Substitution of "Paur Sabha" for Metropolitan Council" and "Antarim Paur Sabha" for "Interim Metropolitan Council".

2. In the Delhi Administration Act, 1966 (hereinafter referred to as the principal Act), for the words "Metropolitan Council" and "Interim Metropolitan Council", wherever they occur in the principal Act, the words "Paur Sabha" and "Antarim Paur Sabha", respectively, shall be substituted.

Amendment of section 3.

3. In section 3 of the principal Act, sub-section (3) shall be omitted.

Amendment of section 22.

4. In section 22 of the principal Act, in sub-section (2), the words "wherever necessary" shall be omitted.

Amendment of section 24.

5. In section 24 of the principal Act, the proviso shall be omitted.

Amendment of section 26.

6. In section 26 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) The powers, privileges and immunities of the Paur Sabha and of the members and committees of the Paur Sabha shall be those of the House of the People and of its members and committees."

Amendment of section 27.

7. In section 27 of the principal Act,—

(i) in sub-section (1),—

(a) for the words "to assist and advise" the words "to aid and advise" shall be substituted;

(b) the provisos shall be omitted;

(ii) for sub-section (2), the following sub-section shall be

substituted, namely:—

“(2) The Chief Executive Councillor shall preside at every meeting of the Executive Council, but if he is obliged to absent himself from any meeting of the Council owing to illness or any other cause, any other Executive Councillor nominated by the Chief Executive Councillor in this behalf shall preside at the meeting of the Council.”;

(iii) in sub-section (3), the words “and with respect to such other matters as the President may from time to time specify in this behalf” shall be omitted; and

(iv) sub-sections (4), (5) and (6) shall be omitted.

8. In section 28 of the principal Act,—

Amend-
ment of
section
28.

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Chief Executive Councillor shall be appointed by the Administrator and the other Executive Councillors shall be appointed by the Administrator on the advice of the Chief Executive Councillor.”; and

(ii) in sub-section (5), for the words “as the President may, by order, determine” the words “as the Paur Sabha may, by resolution, determine” shall be substituted.

9. In section 29 of the principal Act, in sub-section (1), for the words “the President shall make rules” the words “The Chief Executive Councillor shall make rules” shall be substituted.

Amend-
ment of
section
29.

10. Section 30 of the principal Act shall be omitted.

Omis-
sion of
section
30.

11. In section 31 of the principal Act, for the words “If the President, on receipt of a report from the Administrator or otherwise, is satisfied—

Amend-
ment of
section
31.

(a) that a situation has arisen in which the administration of Delhi cannot be carried on in accordance with the provisions of this Act; or

(b) that for the proper administration of Delhi it is necessary or expedient so to do,” the words “If the President, on receipt of a report from the Administrator or otherwise, is satis-

fled that a situation has arisen in which the administration of Delhi cannot be carried on in accordance with the provisions of this Act" shall be substituted.

Amend-
ment of
section
36.

12. In section 36 of the principal Act, in clause (i), after the words "Interim Metropolitan Council from among themselves" the words "in accordance with the system of proportional representation by means of the single transferable vote" shall be inserted.

Insertion of
New
Section 39.
Language to be
used in
the
Paur
Sabha.

13. After section 38 of the principal Act, the following section shall be inserted, namely:—

"39. The business in the Paur Sabha shall be transacted in Hindi."

STATEMENT OF OBJECTS AND REASONS

The brief existence of the Metropolitan Council has shown that the Council can more effectively serve the people of Delhi if the Executive Council is made directly responsible to the popularly elected Metropolitan Council and in day to day business it remains free from the control of Central Government. The powers and privileges granted to legislative bodies should also not be denied to the Council. There is no provision in the Delhi Administration Act, 1966 for language to be used for transaction of business in the Council. Also, in the interest of efficient administration of Delhi, it is felt that Metropolitan Council should have jurisdiction over many subjects now treated as 'reserved'. The Bill seeks to amend the Delhi Administration Act, 1966 so as to achieve these objects. The Bill seeks to provide for some incidental amendments also.

BHAI MAHAVIR.

NOTES ON CLAUSES

Clause 2.—The regional language of Delhi is Hindi. It is desirable that the nomenclature in regard to Delhi's chief popular forum be in Hindi.

Clause 3.—Nomination of members to a popular body like the Metropolitan Council is an undesirable practice; it needs to be done away with.

Clause 4.—It should be obligatory for the Administrator to forward the recommendations of the Metropolitan Council to the Central Government. The principal Act by using the words "where necessary" leaves this to the discretion of the Administrator.

Clause 5.—Under the principal Act, the Administrator enjoys some special powers which he is to exercise in his discretion. There seems to be no reason, however, why even the interpretation of these powers should vest in the Administrator. This clause, therefore, seeks to annul the over-riding authority conferred on the Administrator in regard to rules framed by the Metropolitan Council. The Council's rules in regard to its own procedure should be inviolate except in so far as they infringe any article of the Constitution.

Clause 6.—The principal Act denies to the Metropolitan Council even such privileges as have been conferred on legislatures of other Union Territories. This clause seeks to rectify this position.

Clause 7.—This clause seeks to confer on the members of the Executive Council powers akin to those of a Council of Ministers in a Union Territory. Also, the only reserved subject in regard to which discretionary powers were vested in the Administrator was "law and order, including the organisation and discipline of police." But section 27(3) which makes this provision also empowers the President to notify any other subject as a reserved subject. This clause seeks to restrain this arbitrary right of the Central Government.

Clauses 8 and 9.—These clauses seek to make the Executive Council responsible to the Metropolitan Council and make some incidental amendments in the provisions of the principal Act pertaining to them.

Clause 10.—The powers of the Administrator and the Executive Councillors should not be circumscribed in the arbitrary manner in which section 30 of the principal Act does. Or else, there would always remain the danger of this authority being misused.

Clause 11.—Provisions contained in clause (a) of section 31 of the principal Act are adequate to deal with a situation where there is a failure of constitutional machinery in Delhi; clause (b) vests the Central Government with an almost unfettered and arbitrary right to suspend the operation of the Delhi Administration Act, 1966. This clause seeks to repeal this latter part.

Clause 12.—This clause seeks to provide that the election of the representatives of the Metropolitan Council to the Delhi Development Authority shall be held in accordance with the system of proportional representation by means of the single transferable vote.

Clause 13.—This clause seeks to prescribe the language for the transaction of the business of the Metropolitan Council.

VI

BILL No. XXXII OF 1968.

A Bill to provide for the compulsory publication of annual accounts by recognised political parties.

Be it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Publication of Political Party Accounts Act, 1968.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title and
com-
mence-
ment.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) 'recognised political party' means a political party recognised as such by the Election Commission;

(b) 'prescribed' means prescribed by rules made under this Act.

3. (1) Every recognised political party shall keep a separate and accurate account of all receipts and expenditure pertaining to party work and shall publish the same annually by such date and in such manner as may be prescribed. Annual publication of accounts.

(2) The account shall contain such particulars as may be prescribed.

4. (1) If the Election Commission is satisfied that a recognised political party has failed without sufficient reason or justification to publish its accounts within the time and in the manner prescribed by or under this Act, it shall, by an order published in the Official Gazette, declare the withdrawal of recognition of the political party. Withdrawal of recognition for failure to publish accounts.

(2) An order issued under sub-section (1) shall remain in force for a period of three years:

Provided that the Election Commission may, for reasons to be recorded, revoke the order earlier.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following namely:—

(a) the form and manner in which the accounts are to be published;

(b) the time by which the accounts are to be published;

(c) any matter which is required to be, or may be, prescribed;

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before

the expiry of the session in which it is so laid or the session immediately following, both Houses of Parliament agree in making any modification in the rule or agree that the rule should not be made, the rule shall thereafter have effect in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The health of parliamentary democracy in India warrants that the accounts of political parties should be published annually. The Constitution does not formally recognise the existence of political parties. But by rules framed by the Election Commission in exercise of its powers under the Representation of the People Act, 1951, political parties are granted recognition for certain electoral purposes. This Bill seeks to make compulsory the publication of accounts by a recognised political party and provides that failure to publish the accounts shall result in withdrawal of such recognition.

PITAMBER DAS.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers Central Government to prescribe the manner in which the political parties are to publish their accounts. This is a matter of detail which need not be provided for in the statute itself. The delegation of legislative power is therefore of a normal character.

B. N. BANERJEE,
Secretary.